THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.17332 and18756 of 1998

Dated : 07.03.2007

W.P.No.17332 of 1998:

Between:

Kurma Komaraiah S/o Mallanna and others.

… **PETITIONERS**

And:

Government of Andhra Pradesh, rep., by its Secretary, Revenue Department, Secretariat, Hyderabad and others.

….**RESPONDENTS**

And

W.P.No.187556 of 1998:

Between:

Akula Yadagiri S/o A.Padma Rao and others.

… **PETITIONERS**

And:

Government of Andhra Pradesh, rep., by its Secretary, Revenue Department, Secretariat, Hyderabad and others.

….**RESPONDENTS**

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.17332 and18756 of 1998

COMMON ORDER:

As these two writ petitions are interrelated, these writ petitions are disposed of by this common order.

Petitioners in W.P.No.17332 of 1998 are stated to be protected tenants in respect of the lands in Sy.Nos.54/A and 55 admeasuring Acs.8.17 guntas and Acs.13.13 guntas, respectively, situated in Madinaguda Village, Serilingampally Mandal, and have been cultivating the lands even before the A.P. (Telangana Area) Tenancy and Agricultural Lands Act (for short "the Act") came into force. They have purchased the said lands from the original owners by virtue of agreements of sale, dated 30.04.1996. Subsequently, on their application for issuance of sale certificates under Section 38(1) of the Act, the Revenue Divisional Officer, Chevella Division, Ranga Reddy District, after conducting enquiry, held that the petitioners are protected tenants and thereby ordered to issue sale certificates in favour of the petitioners under the Act, by his proceedings dated 20.07.1996. Be that as it may, the petitioners were served with notices under Section 10(5) of the Urban Land Ceiling Act, 1976, stating that the lands in their possession was declared to be excess by the owners and thereby they were directed to surrender the excess lands. Questioning the same, W.P.No.17332 of 1998 has been filed.

The third respondent filed a counter denying the averments made in the affidavit filed in support of W.P.No.17332 of 1998. It is stated in the counter that the petitioners are neither owners of the lands in question nor they filed any statement in Form.I under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976, which is obligatory on the part of the tenants also. The petitioners have not produced any documents in support of their entitlement of the lands in question, and they have also not filed the statement under Section 15 of the Urban Land Ceiling Act from the date of acquisition. Hence, the writ petition is liable to be dismissed.

The successors of the original owners also filed a counter. They stated that the petitioners are not at all in possession of the said lands, but they are illegally trying to occupy the said lands, and hence they

cannot claim any right over the said lands.

The petitioners in W.P.No.18756 of 1998 are the purchasers from the successors of the original owners in respect of the land admeasuring Ac.0.30 guntas in Sy.No.64 of Madeenaguda village, Serilingampally Mandal, by virtue of a registered sale deed dated 20.05.1998. They state that their vendors own the lands admeasuring Acs.1.68 guntas in the said survey number in the peripheral area of Hyderabad Urban Agglomeration, and after issue of G.O.Ms.No.733 Revenue (UCL) Department dated 31.10.1988, their vendors have availed exemption till the date of alienation of the land in favour of the petitioners. While so, the petitioners in W.P.No.17332 of 1998 were served with notices under Section 10(5) of the Act asking them to surrender the land purchased by the petitioners in W.P.No.18756 of 1998, without issuing the said notice to them. It is the contention of the petitioners that the land in question is an agricultural land and does not come within the purview of the Urban Land Ceiling Act, and as such, they seek a direction to the respondents not to dispossess them from the said land.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

According to the petitioners in W.P.No.17332 of 1998, subsequent to their purchase as protected tenants, they filed an application for issuance of sale certificate and the Revenue Divisional Officer, after holding an enquiry, issued the proceedings dated 20.07.1996 categorically finding that the petitioners are protected tenants over the lands in Sy.Nos.54 and 55 admeasuring Acs.21.30 guntas and as such they are entitled for issuance of sale certificate under Section 38(1) of the Tenancy and Agricultural Lands Act and accordingly directed them to furnish the required stamp papers for the purpose of issuance of sale certificate. Apparently, while issuing the

impugned notice under Section 10(5) of the Act the authority has not taken the said fact into consideration, and the petitioners were also not heard as to whether there is any surplus, but they were directed to vacate the said land. So far as the grievance of the petitioners in W.P.No.18756 of 1998 is concerned, they were not served with any notice directing them to surrender the land purchased by them, but in the notice served to the petitioners in W.P.No.17332 of 1998 the land purchased by the petitioners in W.P.No.18756 of 1998 was included.

In the light of the same, this Court is of the view that the respondents may be directed to hear the petitioners before proceeding further.

Accordingly, these writ petitions are disposed of directing the petitioners to offer their explanation before the Special Officer cum competent authority under the Urban Land Ceiling Act, who in turn, shall consider the same and pass appropriate orders as to whether there is any excess land or not, duly affording sufficient opportunity to the petitioners. Till the said exercise is completed, the petitioners shall not be dispossessed from the lands in their possession. There shall be no order as to costs.

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07.03.2007

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